In re Patent Application of:
ROY
Serial No. **10/777,871**
Filing Date: **February 12, 2004**
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REMARKS

Applicant thanks the Examiner for the detailed study of the present application. Claims 1-33 are pending application. In view of the foregoing and the arguments set forth below, it is respectfully submitted that all of the claims are patentable.

I.   The 35 U.S.C. § 101 Rejection

In the Office Action mailed January 30, 2006, the Examiner raised a § 101 non-statutory subject matter with respect to independent Claim 29, and helpfully suggested that Applicant amend the preamble of this claim to recite "a computer-readable medium on a tangible embodiment," which Applicant did in the Amendment After Final filed April 27, 2006. However, the Examiner now repeats the same § 101 rejection found in the January 30, 2006 Office Action in the present Office Action mailed June 22, 2006. Accordingly, since Applicant has already made the amendment suggested by the Examiner, it is believed that this rejection was repeated in the present Office Action by mistake, and that the rejection has already been overcome. As such, Applicant requests that this rejection be withdrawn.

II.   The 35 U.S.C. § 112 Rejections

(a)   Written Description Rejection

The Examiner objected to the claim language added to independent 1, 12, 18, 24, and 29 in the above-noted Amendment After Final reciting that polling occurs "without device

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initiated commands … " for failing to comply with the written description requirement. In particular, the Examiner was not clear where the support for this recitation is provided in the specification.

Applicant first directs the Examiner's attention to paragraph 0036 of the originally filed specification, where it is noted that the communications devices **11, 12** may include software clients that are used to provide access to data (e.g., email data, etc.) stored on data storage devices **16, 18, 20**, for example. Furthermore, paragraph 0051 then goes on to state that these software clients "need not initiate data access requests in all embodiments." That is, in some embodiments the protocol interface device **14** may include (or communicate with) a polling or aggregation engine module that prompts the protocol engine module **32** to aggregate messages for respective users from the mail systems **24, 26, 28**. Thus, paragraph 0051 makes readily clear that while in some embodiments the software clients on mobile devices can initiate polling for data files (e.g., email messages), the protocol engine module of the protocol interface device, for example, may also initiate such polling operations without device software client involvement, i.e., without device initiated commands. Therefore, the specification provides ample support for the prior amendments to the above-noted independent claims, and it is therefore requested that this first § 112 rejection be withdrawn.

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(b)   Clarity Rejection

The Examiner also now contends that the use of the term "protocol" in the claims is somehow unclear. As the basis for this assertion, the Examiner points to the last sentence of the Abstract of the present application, and indicates that this sentence is the definition Applicant provides for "protocol" as used in Claims 1-33. This sentence reads "[t]he protocol engine module may also poll the data storage devices for UIDs of data files stored thereon, and cooperate with the protocol converter module to provide UIDs for respective data files to the MWCDs upon receiving access requests therefrom." The Examiner then contends that this renders the term indefinite in the claims in view of the "accepted meaning" of "communications protocol" as found in the Microsoft Computer Dictionary, Fourth Edition. Office Action mailed June 22, 2006, page 3. This definition is reproduced below.

> "**communications protocol** *n.* A set of rules or standards designed to enable computers to connect with one another and to exchange information with as little error as possible. The protocol generally accepted for standardizing overall computer communications is a seven-layer set of hardware and software guidelines known as the OSI (Open System Interconnection) model. A somewhat different standard, widely used before the OSI model was developed, is IBM's SNA (Systems Network Architecture). The word *protocol* is often used, sometimes confusingly, in reference to a multitude of standards affecting different aspects of communication, such as file transfer (for example, XMODEM and ZMODEM), handshaking (for example,

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XON/XOFF), and network transmissions (for example,
CSMA/CD). *See also* ISO/OSI model, SNA." (Italics in
original).

Applicant respectfully submits that this rejection is
in error. As an initial matter, the sentence that the Examiner
quotes from the Abstract of the present invention is not even a
definition of the term "protocol." Rather, this sentence is
merely a summary of the language used in the independent claims.
However, as previously stated in the above-noted Amendment After
Final, what Applicant means by the term "operating protocol" used
throughout the claims is clearly defined on page 11 in paragraphs
0041-0042 of the originally filed specification. In particular,
as the plain language of the term states, an "operating protocol"
is a protocol that a given wireless communications device or data
storage device uses for operating. Paragraphs 0041-0042 then
provide specific examples of what such operating protocols are,
which include the Wireless Application Protocol (WAP), Post
Office Protocol (POP), Internet Message Access Protocol (IMAP),
Hypertext Transfer Protocol (HTTP), etc. Accordingly, it would be
immediately clear to one of ordinary skill in the art what the
claim terminology "operating protocol" means, as there is a
multiplicity of very specific examples thereof provided in the
specification.

The definition of "communications protocol" cited by
the Examiner comes from a computer (as in "personal computer")
dictionary from a computer software manufacturer, so it is not
surprising that this definition is somewhat narrow and specific

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in its focus. As the names of the above-noted protocols indicate,
"protocols" are not limited to computer protocols alone, although
the Microsoft Computer Dictionary definition does not go beyond
this limited scope in its definition. A more appropriate
definition would be one such as found at
http://www.unitedyellowpages.com/internet/terminology.html#P:

> **"Protocol**
> On the Internet "protocol" usually refers to a set of
> rules that define an exact format for communication
> between systems. For example the HTTP protocol defines
> the format for communication between web browsers and
> web servers, the IMAP protocol defines the format for
> communication between IMAP email servers and clients,
> and the SSL protocol defines a format for encrypted
> communications over the Internet.
>
> Virtually all Internet protocls [sic] are defined in
> RFC documents.
>
> FTP, HTTP, IMAP, POP, PPP, RFC, SLIP, SMTP, SNMP, SSL,
> TCP/IP, UDP"

Accordingly, the term "protocol" as used in Claims 1-33
is clear, and the § 112 rejection directed thereto should be
withdrawn.

III.   The Claimed Invention

The present invention is directed to a communications
system. As recited in independent Claim 1, for example, the
system includes a plurality of mobile wireless communications
devices each using at least one of a plurality of different

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operating protocols as configuration commands and instructions for accessing electronic mail and data systems to send at least one access request. The system further includes a plurality of data storage devices for storing data files, where each data file is associated with a respective mobile wireless communications device, and each data file has a unique identification (UID) associated therewith. Moreover, each data storage device uses at least one of the plurality of different operating protocols. The system also includes a protocol interface device including a protocol converter module for communicating with the plurality of mobile wireless communications devices using respective operating protocols thereof, and a protocol engine module for communicating with the plurality of data storage devices using respective operating protocols thereof. The protocol engine module is also for polling the data storage devices for UIDs of data files stored thereon, and for cooperating with the protocol converter module to provide UIDs for respective data files to the mobile wireless communications devices upon receiving access requests therefrom. More particularly, the polling occurs without device initiated commands whether there is or is not communications with a mobile wireless communications device to maintain UID's current to within a polling interval and reducing latency when communication occurs.

Independent Claims 12 and 18 are directed to related protocol interface devices. Moreover, independent Claim 24 is directed to a related method, and independent Claim 29 is directed to a related computer-readable medium.

IV.   The Claims Are Patentable

The Examiner rejected independent Claims 1, 12, 18, 24, and 29 based upon U.S. Patent Publication No. 2003/0004955 to Cedola et al. (hereinafter "Cedola") in view of U.S. Patent Publication No. 2002/0026513 to Hoglund et al. (hereinafter "Hoglund"). Cedola is directed to a system for translating events originally identified as "change" events in one replication protocol to "add" events in another replication protocol where appropriate. More particularly, a WebDAV-based system interacts with a non-WebDAV based system. On a first replication transaction between the two systems, a sync state table is created on an intermediate server or a server that facilitates communication between the two systems. The sync state table is linked to the non-WebDAV system for future replication transactions. The sync state table maintains a list of objects that have been sent to the non-WebDAV system in past replication transactions. Thereafter, for each replication transaction, a manifest of changes since the last replication transaction is transmitted from the WebDAV system to the intermediate server. The manifest includes information in accordance with the WebDAV protocol, i.e., without notice of add events. For each change event in the manifest, the object reported as changed is compared to the list of objects in the sync state table from the previous transaction. If the object does not exist in the table then the intermediate server changes the object's type from a change event to an add event and the object is added to the sync state table.

When the manifest has been fully processed, the sync state table
is "persisted" for future use. See, e.g., Cedola, paragraphs
0004-0006.

While the Examiner correctly acknowledges that Cedola
fails to teach or fairly suggest that polling occurs without
device initiated commands whether there is or is not
communications with a mobile wireless communications device to
maintain UID's current to within a polling interval and reducing
latency when communication occurs, he contends that Hoglund
properly provides this deficiency. Hoglund is directed to a
communications system for transmitting and/or receiving signals
to/from at least a first communication device from/to at least a
second communication device at least via a user specified real
time and/or a polled transmission.

As support for this contention, the Examiner points to
paragraphs 0034-0036 of Hoglund. As discussed in paragraph 0031
and illustrated in FIG. 5 of Hoglund, for example, in this system
messages are transferred either via a messenger gateway **502** or an
agent gateway **504** depending upon the particular address used. The
reason for two different types of gateways is described in
paragraph 0035, which is reproduced below.

> "[0035] The agent gateways and/or messenger
> gateways thus allow a single user to hold more
> than one e-mail account, and access each of those
> accounts via a single wireless device, although
> other standard methods are additionally and
> optionally provided as well. For example, a user
> may have a personal and/or corporate POP and/or

IMAP based account and a second account associated
with the Motient[SM] network having an @2way.net
domain name. The combined system is capable of
routing messages from the personal account to the
network account. Similarly, in sending a message
from a wireless device **402, 404, 406** via the
network account, <u>the user may use the agent
gateway so that the message is not sent to the
intended recipient immediately, but is polled. In
this case, the sender is not particularly
concerned that the recipient receives the message
on a real time basis (i.e., as soon as possible)</u>.
A user can also gain added flexibility by, for
example, giving his network account to whom he
wishes to receive message from as soon as
possible, and give his POP or IMAP e-mail account
to those whom he does not need to receive messages
from on a real time or near real time basis."
(Emphasis added).

Thus, messenger gateways **502** are used for immediately
forwarding emails in "real-time" (i.e., emails are not stored for
later polling and retrieval), and the agent gateways **504** are used
for polling messages that are stored for later delivery.
Accordingly, there are no polling operations performed by the
messenger gateways **504**, only the agent gateways **502**. Paragraph
0034 of Hoglund, which is reproduced below, describes the polling
operation of the agent gateway.

"0034] Another example of a message transmission
occurs when the message transmission path defaults
to an agent gateway. In this example, <u>a user's
wireless device **402, 404, 406** is configured to
poll an e-mail mailbox (e.g., POP or IMAP)
associated with the user's desktop and/or laptop</u>

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PC. The storage for the e-mail mailbox will
generally, but does not have to, reside on a
remote server. Such polling may occur manually
(i.e., a user specifically perform one or more
commands to retrieve messages), or automatically
on a predetermined basis (e.g., every 30 minutes).
The agent gateway preferably accesses the mailbox
via a network such as the Internet, retrieves any
message(s) therein, and temporarily stores the
messages on the agent gateway or server associated
therewith. The agent gateway then directs the
messages to the wireless device that has the
address associated with that mailbox via an ACE
414, a RF/RNC **412**, and a base station **410**. This
addressing and mapping between the wireless device
and the mailbox is preferably performed by the
user by, for example, a user registration process
and device via, for example, a web server."
(Emphasis added).

Thus, in the Hoglund system, it is the <u>wireless devices</u> that
initiate polling by instructing the agent gateway to perform a
polling operation, either on a fixed schedule or at the user's
direction (i.e., manually). Accordingly, Hoglund teaches the
exact opposite of what the Examiner contends. That is, Hoglund
teaches that polling occurs <u>only</u> upon the occurrence of device-
initiated commands. In stark contrast, the above-noted
independent claims recite that polling occurs <u>without</u> device
initiated commands whether there is or is not communications with
a mobile wireless communications device.

As such, the proposed combination of references not
only fails to teach or fairly suggest all of the recitations of
the above-noted independent claims, Hoglund expressly teaches
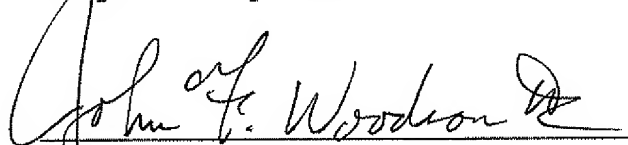away from such a combination by requiring that the wireless

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communications devices initiate polling operations. Therefore, independent Claims 1, 12, 18, 24, and 29 are patentable over the prior art. Their respective dependent claims, which recite still further distinguishing features, are also patentable and require no further discussion herein.

CONCLUSIONS

In view of the foregoing, it is submitted that all of the claims are patentable. Accordingly, a Notice of Allowance is respectfully requested in due course. Should any minor informalities need to be addressed, the Examiner is encouraged to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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